

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 93-520-T - ORDER NO. 94-445✓  
MAY 19, 1994

IN RE: Application of Two Men and A Truck of	)	ORDER DENYING
Greenville, Inc., 32 Hampton Ave.,	)	PETITION FOR
P.O. Box 5584, Greenville, SC 29606,	)	REHEARING AND
for a Class E Certificate of Public	)	RECONSIDERATION
Convenience and Necessity.	)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") on the Petition for Rehearing and Reconsideration of Commission Order No. 94-262, filed by Two Men and A Truck of Greenville, Inc. ("Two Men" or the "Applicant"). On April 7, 1994, this Commission issued its Order No. 94-262, denying Two Men's Application for a Class E Certificate of Public Convenience and Necessity to transport household goods and new furniture and appliances for manufacturers and retail outlets. The Commission found in Order No. 94-262 that the Applicant did not meet the criteria of fitness described under S.C. Code Ann. §58-23-330 (Supp. 1993), and relevant regulations.

First, the Applicant states that substantial, factual changes have been made in its organization since the hearing on this matter on March 14, 1994. Second, the Applicant states that it believes there is a public need which has not been, and is not being, adequately served or addressed by the intervenors.

With regard to the changes in its organization since the hearing, the Applicant states that the General Manager, who testified at the hearing, was terminated after the hearing and is no longer a stockholder or part owner of the Applicant. The Applicant further alleges that the new General Manager has undertaken the task of resolving the problems which were created or improperly handled by the former General Manager. The Applicant also alleges that the new General Manager is operating the business in compliance with the Commission's Rules and Regulations.

By its Petition, the Applicant also alleges that a public need exists which has not been, and is currently not being, served by the Intervenor. Since the Commission found the Applicant unfit for certification, the Commission did not address in its prior Order the issue of whether the public convenience and necessity was being served.

S.C. Code Ann. §58-23-330 sets forth the grounds for the issuance or denial of a Certificate of Public Convenience and Necessity and provides in relevant part:

[a]n applicant applying for a certificate ... to operate as a motor vehicle common carrier may be approved upon a showing based on criteria established by the commission that the applicant is fit, willing, and able to perform appropriately the proposed service. If an intervenor shows or if the commission determines that the public convenience and necessity is being served already, the commission may deny the application. ... (emphasis added).

The criteria for determining "fit, willing, and able" are set forth in 26 S.C. Regs. 103-134 (Supp. 1993). Reg. 103-134

(1)(A)(1)(a) provides in part that the Applicant "should further certify that he is familiar with all statutes and regulations ... governing for-hire motor carrier operations in South Carolina and agrees to operate in compliance with these statutes and regulations."

The Commission's finding that the Applicant was "unfit" to be certified in South Carolina was not based on one or two isolated instances. The Commission's decision was based on the testimony from the hearing which revealed that the Applicant has not obeyed the laws of this State touching motor vehicle carriers. The testimony revealed a series of infractions and irregularities which indicate either willful disregard of or indifference to the Commission's Rules and Regulations. Such action cannot, and will not, be tolerated by this Commission. The admitted infractions were too numerous to be considered simply mistakes or errors. Based on this, the Commission determined that the Applicant had failed to prove that it was "fit" to receive certification.

After considering the Petition for Rehearing and Reconsideration, and the record as a whole, the Commission believes that its decision in Order 94-262 was proper and in accordance with the evidence presented. The Commission therefore denies the request for rehearing or reconsideration on this issue.

Further, the Commission declines to revisit the issue of public convenience and necessity as such a determination is not necessary. Since the Commission has found the Applicant "unfit" to perform the proposed services, the Commission need not address the

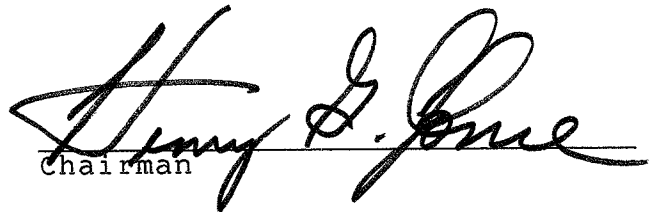
issue of whether or not the public convenience and necessity is being served.

IT IS THEREFORE ORDERED THAT:

1. The Petition for Rehearing and Reconsideration of Order No. 94-262 is hereby denied.

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)